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Advertising Law and Regulation

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**ADVERTISING LAW AND REGULATION. Giles Crown, Oliver Bray & Rupert Earle
[Bloomsbury Professional Ltd, 2010, ISBN 978-1-84592-451-5, lxxv +980pp. Hardback, £125]**

* Published in Journal of Business Law, 2011, Issue 5, 531-533.

The second edition of 'Advertising Law and Regulation' gives a comprehensive overview of the laws and regulations (including case law) on advertising in Great Britain, with some continental European perspectives also covered. The book is divided into three main parts. Part 1 deals with general legal issues ranging from private law to criminal offences. The authors broadly discuss issues related to consumer protection and unfair practice, defamation, intellectual property rights and privacy, as well as comparative advertising, gambling, discrimination, indecency and so on. They also provide considerable discussion on digital marketing and advertising. Part 2 covers specific advertising rules for different products or businesses based on the CAP and BCAP codes as well as the relevant regulations in each area. The authors make it easy for readers to browse by placing the topics in an alphabetical order. A significant number of pages are devoted to financial promotion, food and medicine, but the authors also cover interesting topics such as ambush marketing, political advertising and even the coming London Olympic Games. Part 3 focuses on the regulatory scheme in the UK that distinguishes broadcast from non-broadcast advertising. The authors also provide a brief introduction to the advertising laws of several other countries.

While this coverage is very comprehensive, the book is perhaps missing deeper analysis from theoretical and human rights perspectives. However, this by no means undermines its quality or the authors' efforts. For a book that aims at practitioners, lawyers or not, the authors have done an excellent job of introducing the relevant laws clearly and identifying their application to different products or services.

It is interesting to note that the authors do not attempt to define the over-arching term 'advertising' (or 'advertisement'), a problem that underlines the difficulties of the relationship between advertising and the law. In a way, advertisements implant ideas into people's minds. 'Advertising' involves more than merely filling a column in the print media or creating a film for

the visual media. In the digital era, purchasing the right to be shown as the first result in a Google search is a form of advertising, as is placing a product in a movie (such as the BMW driven by James Bond). In addition, advertisements are sometimes integral parts of products themselves: food labeling is a good example. It is difficult to apply a common definition to cover all sorts of commercial or non-commercial communications that are intended to promote an idea, a product or a service.

Moreover, advertising is entrenched in daily life, and it is at the cross-roads of several legal fields. Given the nature of the many products and services being promoted, advertising is connected with a variety of regulations. In the 21st century, it also faces the challenge of the Internet, while a significant amount of advertisements are still placed in traditional media. Globalisation adds an additional perspective, as advertisements targeted at one region might make impressions in other parts of the world. As the authors duly note in the preface, there are concerns about the freedom of commercial expression. Yet there is also a demand to curtail misleading information in advertisements. In some places, even governments are heavy users of advertisements for public propaganda. As Tim Lefroy, the Chief Executive of the Advertising Association, duly observes in the book's foreword, '[a]dvertising (especially good advertising) is about taking risks and pushing the boundaries.' It is then down to the law to set limits.

From this view, advertising law should touch upon the fundamental values of a society. For example, an advertising campaign that makes fun of Adolf Hitler may mean little in some parts of world but would be deeply offensive to many Europeans. Singapore's Code of Advertising Practice gives a list of social and family values as general principles that must not be transgressed (such as by downplaying the importance of patriotism and national unity, distorting the perception of equality, or downplaying the importance of the family as a unit and the foundation of society).¹ In some countries, political or religious ideologies might necessitate certain advertising regulations. In contrast, advertisements in the United States can be seen as a kind of 'commercial speech' protected by the First Amendment.² From this light, it is interesting to compare the differences between advertising regulations in different jurisdictions. These differences provide fertile ground on which academics can make further investigations from various perspectives.

¹ Singapore Code of Advertising Practice (3rd edition, 2008), Part II: General Principles.

² E.g. *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980).

As influential as advertising is in our daily life, advertising law has not received its due in the past. This book not only offers very good access to and a keen understanding of the relevant rules in the United Kingdom for those who practice in the area, but it might also provide specialists in other areas with a different angle on problems associated with advertising. Financial regulatory lawyers, for instance, should find that the book offers a view on specific rules related to financial promotion from the perspective of advertising law. A foreign lawyer might also find this book useful as the authors create a good analytical structure to explore advertising law in any other country. This is where I find the book particularly fascinating.

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